

REMARKS

Applicants would initially like to thank the Examiner for the allowance of claims 17 and 18, indication of allowable subject matter in pending claims 11-14, and acknowledgment of Applicants' claim for foreign priority.

The Office Action rejects claims 9, 10, 13, 15 and 16 under 35 U.S.C. § 102(e) as anticipated by Usher, PCT 2002/0045444 ("the Usher publication"). Applicants traverse the rejection because the Usher publication is not prior art to the instant application.

The inventors of both the pending application and the Usher publication are identical - Martin Usher and Andrew Mead. The inventive entities are therefore identical. "In order to apply a reference under 35 U.S.C. § 102(e), the inventive entity of the application must be different than that of the reference." MPEP 706.02(b). The Usher publication is therefore not prior art against the pending application under 35 U.S.C. § 102(e) because there is no difference in inventive entities.

Also, the instant application was filed on August 10, 2000 as PCT/GB00/03074, and entered the national phase in the United States with the same disclosure as the PCT filing. The pending application is therefore entitled to a priority date of at least the August 10, 2000 PCT filing date, which predates the April 12, 2001 U.S. filing date of the Usher publication. (Pursuant to MPEP 21360.03, the Usher publication is not entitled to its foreign priority dates for prior art purposes.) Thus, regardless of the inventive entity, the Usher publication is not prior art to the pending application on this independent basis.

Accordingly, the Usher publication is not prior art to the pending application, and the corresponding rejections may not be properly maintained. Withdrawal of the rejection of claims 9, 10, 13, 15 and 16 and allowance of the same are therefore respectfully requested.

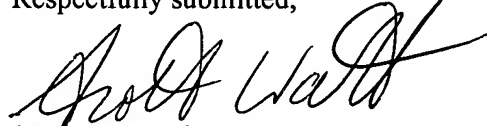
In view of the foregoing, the application is now believed to be in proper form for allowance, and a notice to that effect is earnestly solicited.

If the Examiner believes that a telephone conference would be of value, he is requested to call the undersigned attorney at the number listed below.

The Commissioner is hereby authorized to charge/credit any fee deficiencies/overpayments to Deposit Account No. 19-4293 (11696.4009).

Date: October 19, 2005

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott D. Watkins", written in a cursive style.

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